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HUMAN RIGHTS QUESTIONS: HUMAN RIGHTS SITUATIONS AND REPORTS OF SPECIAL RAPPORTEURS AND REPRESENTATIVES

Letter dated 21 November 1994 from the Permanent Representative of the Sudan to the United Nations addressed to the Secretary-General

Upon instructions from my Government, I have the honour to enclose herewith the text of the response by the Government of the Sudan to the interim report on the situation of human rights in the Sudan (A/49/539) prepared by Mr. Gáspár Bíró, in accordance with Commission on Human Rights resolution 1994/79 of 9 March 1994, and Economic and Social Council decision 1994/265 of 25 July 1994.

It would be highly appreciated if the present letter and its annex were circulated as a document of the General Assembly under agenda item 100 (c).

(Signed) Ali Mohamed Osman YASSIN
Permanent Representative

94-46815 (E) 291194 301194

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ANNEX

Response by the Government of the Sudan to the interim report on the situation of human rights in the Sudan prepared by Mr. Gáspár Bíró, as contained in document A/49/539 dated 19 October 1994

1. The profound changes in the international scene in the past few years and the search for a new international order, devoid of super-Power confrontations and ideological differences, has led to a new set of priorities for the international community. The demise of the Socialist bloc, and the compound social and economic problems faced by the countries of the third world, had a profound negative effect on the relations between the developed countries in general and the Western countries in particular, and the rest of the world, especially the third world. Items of a social and political nature have become prominent in the agendas of the various international bodies, including the United Nations. The concepts of sovereignty and non-interference in the internal affairs of countries, especially those that lag behind in their social and economic development, are being gradually relegated to the back burner. Conflict resolution, humanitarian assistance and human rights have come to occupy a central role in the discussion and concern of the international organizations, and in the instigation by and prodding of the Western countries. However, the consideration of these issues in the United Nations and its relevant bodies is not devoid of the political overtones that are reminiscent of the cold war era. As a matter of fact, political considerations and expediency of purpose have come to obscure the real issues, and the discussion of these items by the relevant bodies clearly reflects the cynicism of their initiators. This is especially so in the case of human rights.

2. Since its inception, the Commission on Human Rights has evolved into an important instrument in the United Nations family, ostensibly to prepare recommendations and reports on a wide range of declarations and all aspects of conventions on civil liberties, as well as any other matters concerning human rights. Alas, the performance of the Commission and its subsidiary bodies leaves much to be desired. Since the Commission came into prominence at the end of the cold war, the Western countries have concentrated much attention on its activities in an attempt to turn it into an instrument tailored to pursue and realize their own political and strategic objectives, making use in this respect of some flaws in the rules of procedure and methodology of work of the Commission. It has therefore come to acquire a reputation for selectivity in its approach to cases of human rights abuses, a lack of democratic practices in its voting and decision-making, bias in its staffing, procedures and appointments and coercion and insensibility in the administration of its meetings.

3. A case in point is what transpired at the forty-ninth session of the Commission, which led to much grumbling and criticism from the countries of the third world, and the consequent adoption of resolution 1993/98 of 12 March 1993, entitled "Rationalization of the work of the Commission". Unfortunately for the Commission, the word "Rationalization" was given different interpretation by the Western Group and the Movement of Non-Aligned Countries Group. The Working

Group established under the aforementioned resolution was met with two stumbling-blocks: the interpretation of the mandate by the Western Group, and the biased behaviour of the Chairman of the Commission, who happened to come from the Western Group. The deliberations of the Working Group lasted from 12 to 23 September. The results of the meetings were dismal, to say the least. Thus, while the Movement of Non-Aligned Countries Group called for a comprehensive rationalization of the agenda and working methods of the Commission, consistent with the purposes and principles of the United Nations as defined by its Charter, the Western Group, on the other hand, proposed a piecemeal approach based on step-by-step concepts, such as rationalizing the agenda of the Commission only. Again, while the Movement of Non-Aligned Countries Group affirmed that the guiding criteria of the work of the Commission should be based on the principles of impartiality, objectivity and non-selectivity of the considerations of all human rights issues, in a spirit of cooperative dialogue, the Western Group insisted on carrying on with the same technique, which has, in effect, increasingly reduced the effectiveness of the Commission, and advocating such techniques as investigation, pressure, criticism and condemnation.

4. As is well known, such a confrontational approach is inconsistent with the principle of international cooperation enshrined in the Charter of the United Nations, and especially of its Article 13. Since this article forms the legal basis for work on special procedures, comprising the rapporteurs, representatives, working groups and experts of the Commission and Subcommissions, their development on an ad hoc basis has led to a situation of ambivalence and has consequently adversely affected their credibility and impartiality. One of the most significant drawbacks to this development is the appointment of country rapporteurs, which has become, in effect, a highly political process. Their performances have become highly questionable, and their objectivity and impartiality in performing their assignments leaves much to be desired. The fact that there exists, presently, a geographical imbalance in their selection and appointment has proved detrimental to their performance, owing to their limited knowledge of the comprehensive domestic situation and contacts with the authorities concerned. The Commission's failure to provide them with guidelines for their work, codes of conduct and a criteria for admissibility of communications, and the absence of a relevant mechanism for regular review and supervision of their work by the Commission have resulted in a situation whereby they began to assume powers and freedom of action superseding their mandates and their obligations as international civil servants.

5. A case in point is the irresponsible behaviour of Gáspár Bíró, the Special Rapporteur of the Commission on Human Rights, who, in flagrant violation of the rules and regulations that govern the conduct of international civil servants, openly sides with the opposition factions and participates actively in their meetings and activities, some of which are held under the auspices of missionary groups in foreign capitals. The open support and encouragement accorded to him by the Western Governments and the lame excuses offered by the Centre for Human Rights for his unprecedented behaviour can only enhance the growing scepticism of the third world countries of the seriousness of purpose of the Commission on Human Rights, a misnomer in the view of some, which should be corrected to "Commission on Political Expediency".

6. The lack of impartiality was not, however, restricted to the appointed officers of the Commission but extended unfortunately to the management of the Commission's meetings. The behaviour of the Chairman of the Commission at the fiftieth session, for example, cannot under any circumstances be described as fair or exemplary. He was given to interrupting delegates during the delivery of their statements, instructing them to speak along prescribed lines, or ruling them out of order if the substance of their statement did not conform with his views on the item. Such interruptions were carried out, on a selective basis. He held press conferences in which he attacked by name delegations whose views happened to be at variance with those of the Western countries. A point in case was a note by the delegation of Cuba at Geneva on 14 October 1994 addressed to him, in response to a declaration made by him to the press, in which he attributed "responsibility to a group of countries, among them Cuba, for the lack of results of the session of the open-ended informal Working Group on the rationalization of the work of the Commission on Human Rights". Such a declaration by the Chairman was, in fact, flying in the face of truth, since the failure of the consultation can squarely be placed at the doorstep of the Western Group, for adopting a completely negative stance towards all the proposals put forward by the Movement of Non-Aligned Countries Group, for insisting on deleting certain items from the agenda of the Commission, for abusing the procedure of consensus in stalling any genuine reforms and for refusing to democratize the voting system in the Commission. The Chairman had contributed significantly to these dismal results by his open hostility to the delegations of the third world, for his bias against the proposals submitted by the Movement of Non-Aligned Countries Group and the African Group, and for his unprecedented resort to the media to vent his anger at some delegations, which he classified as obstructive to the designs of the Western Group.

7. The politicized approach of the Commission on Human Rights with regard to the country situation reporting is emphasized in two aspects: the methods by which the special rapporteur is appointed, and the exercise of requesting an interim report to the General Assembly and a full report to the Commission, thus ensuring that the country in question is subjected to a continuous adverse publicity, as well as international pressure and censorship. The absence of transparency in the selection and appointment of special rapporteurs has given rise to a consistent and often irrefutable suspicion as to their bias in favour of the policies and objectives of those Governments that have proposed their names in the first instance.

8. In the case of Gáspár Bíró, the Special Rapporteur on the situation of human rights in the Sudan, his name was proposed by a Government that pursues a consistently confrontational approach towards the Sudan, and his appointment was confirmed by a Chairman whose Government does not hide its hostility to the Government of the Sudan. On the other hand, the Commission has had absolutely no say in his appointment. It was, therefore, no surprise that he maintained a hostile attitude to the officials of the Government of the Sudan. Such an attitude was best illustrated in an interview he gave to the Washington Post on 26 March 1994, in which he stated: "I lived always with one foot in prison. I know well how totalitarian Governments operate, how they think they can hide things and what they try to do. I think perhaps the Sudanese overlooked that possibility when they let me in the country." Such are the words of a man who

was determined from the start to prosecute and incriminate rather than monitor and investigate.

9. In his determination to condemn the Government of the Sudan, Gáspár Bíró seems to have lost sight of the principles that should have guided him in the implementation of his mission as a United Nations official, namely, the principles of impartiality, objectivity and non-selectivity. His frequent association with the opposition factions in foreign capitals, including his recent acceptance of an invitation by the Secretary-General of the Arab Lawyers Union, who is a Sudanese national dedicated to the overthrow of the Sudanese Government, has in fact involved the Centre for Human Rights and the Commission in internal Sudanese politics. The allegations and disinformation propagated by the opposition factions in the media of some unfriendly Powers were given credibility in United Nations documents through the relentless efforts of Gáspár Bíró, and these allegations were thus transformed into information from reliable sources, in the words of the Special Rapporteur. It is this technique, and his flagrant and insensitive attack on Islam which led the Government to reject him, in his role as Special Rapporteur on human rights in the Sudan, without, however, outruling the possibility of having his mission being carried over by another qualified, impartial and professional rapporteur.

10. The Special Rapporteur has introduced his report (A/49/535, annex) by an outline of his mandate in paragraphs 1-8. Ironically, he missed the backbone of his mandate, namely, the criteria for admissibility and reliability of the information submitted to him. We are not being theoretical because other expert bodies of the Commission on Human Rights (the Subcommission on Prevention of Discrimination and Protection of Minorities) have addressed that issue as early as 1971, but it seems that the Special Rapporteur has a long way to go before he qualifies for his mandate. That lack of professionalism explains why the Special Rapporteur has admitted and relied upon, in paragraph 21 of his report, the hearsay testimony of one single man who testified about an incident that took place in June-August 1992, despite the fact that the Special Rapporteur has visited the Sudan three times since that date and nobody else ever mentioned that incident to him. Also, when enumerating the decisions taken against the Sudan in the field of human rights he did not explain that the resolution of the General Assembly in 1992 was premature because it was passed before he had submitted his report. In addition, in its 1993 decision, the Commission disregarded this recommendation and the recommendation of the Working Group to extend his mandate under the confidential procedures for one year.

11. In paragraphs 9-13 of his interim report, he has unambiguously explained that the interim report was based only on stories told by self-exiled opposition groups or individuals in Nairobi, Uganda or Cairo. What would anyone in his full senses expect of such individuals or groups? As he has rightly reported, the Government of the Sudan has not invited him to visit the country, but he did not explain the circumstances of the Government's position, bearing in mind that it had received him three times previously. He was not invited because he has called for the abolition of Shariah Law, thereby violating the religious freedom of the Sudanese people guaranteed by principal human rights declarations and covenants. That course of action by the Government will continue as long as he maintains his unprecedented position towards Shariah Law. But we don't believe

he should be allowed to use the obstacles created by himself to pass a default judgement on the Government.

12. The Sudan has repeatedly expressed its lack of confidence in the professionalism and impartiality of Gáspár Bíró as the designated Special Rapporteur for human rights. It has cited several examples of his bias against the constituted authority and institutions of the country, his unabashed collusion with the opposition factions, including the rebel groups, and his public statements against the Government to the media. Yet, the Commission and, in particular, the Western Group continued to brush aside the Sudan's remonstrations, and to give him open and unqualified support, while the Centre for Human Rights made excuses to the effect that the ultimate decision lies with the Commission and its Chairman. This gives rise to a situation where a foreign country and a Member of the United Nations is denied its right to call for a redress of a grievance and an injustice inflicted upon it by an official of an international body and, at the same time, the official is provided with every encouragement to carry on with his activities, no matter how irrelevant they are to the implementation of his mandate, and without due regard to the provisions of Article 13 of the Charter.

13. The interim report prepared by Gáspár Bíró and presented to the Third Committee under agenda item 100 (c) in document A/49/539, on the whole repeats the allegations previously mentioned in his interim reports to the General Assembly and in his full reports to the Commission. Since the respective Sudanese delegations have dealt with these reports at length in their official statements before the General Assembly and the Commission, and in two comprehensive documents distributed to the members of these august bodies under the numbers A/C.3/48/17 and A/49/82, we shall not dwell on these allegations lest we repeat previous arguments and waste the time of the Third Committee. We shall concentrate instead on those new aspects of the report, whereas Gáspár Bíró tried to introduce new cases of enforced or involuntary disappearances and of torture and other cruel, inhuman or degrading treatment.

14. In all these reported cases, the allegations that Gáspár Bíró claims were brought to his attention were of an individual nature and despite his apparent attempt to cast a bleak shadow on the actions ascribed to the Government, the fact remains that he had to admit that, in most of these cases, the persons concerned were set free after short periods of detention. In one of the reported cases, he exhibited his ignorance when he referred to one of the politicians mentioned in his report as "Father", thus mistaking his name as a title implying that he is a priest.

15. Gáspár Bíró has also failed to mention that the main source of information, or rather disinformation, supplied to him is the "Arab Lawyers Union", which is only a faction of radical opinion in the Arab countries, and is led, or in fact manipulated, by an aspiring Sudanese politician, active in opposition circles.

16. Bíró's reference in his interim report to the arrest of some Sudanese politicians on charges of participating in a subversive plot of bombings and assassinations against key government figures failed to mention the charges against them and the subsequent statement issued by the leader of the political party to which they belonged, in which he condemned the act and stated that "we

thank God that it has not reached the level of implementation". The same statement went further to explain that the said detainees had never been subjected to torture and that the proper treatment extended to them included medical care.

17. Gáspár Bíró's reference in his interim report to a riot caused by the students of a provincial university constituted, in his view, enough ground to call for the intervention of the international community. To put that incident in its proper perspective it is worth mentioning that the Government of the Sudan has, within a record time, established more than 15 new universities and colleges, depending on its own meagre resources. That being the case, one single riot by students calling for better living conditions should not be something for the Special Rapporteur to write about. Surely the Special Rapporteur, in this instance, has exhibited a lack of a sense of proportion.

18. In addressing the issue of violations and abuses in 1994, Gáspár Bíró concentrated his remarks mainly on the question of Sudanese refugees in neighbouring countries, notwithstanding the fact that these issues have been and continue to be discussed in the respective organs of the Office of the United Nations High Commissioner for Refugees (UNHCR), and the selective highlighting of some aspects in this problem could, in his estimate, result in a negative trend against the Government in the Commission's discussion. Having stated the unavoidable fact that most of the population in the combat zones moved to safer areas under government control and that only a small percentage has taken refuge in some neighbouring countries, the Special Rapporteur shied away from explaining that had it been for the free will of that small percentage, they would certainly have opted to move to government-controlled areas where they would be properly received, but their proximity to the borders left them with no other alternative but to cross the borders to the neighbouring countries. Such explanation, which the Special Rapporteur deliberately avoided, is evidenced by the daily voluntary return of those refugees to government-controlled areas whenever they find the chance to do so. There is no mention of rebel interfactional fighting, which is, in fact, the main cause of civilians seeking refugee status in neighbouring countries, nor is there any reference to the daily and increasing number of refugees returning to their homes after they have been made secure by government forces.

19. The reference to aerial bombardment by government forces was lifted intact from foreign media publications and reports. These reports and releases were part of a campaign carried out by circles supportive of the rebel movement, at a time when the rebel morale was at its lowest ebb and their forces were on the verge of collapse. Although the media reports insisted that the bombings deliberately targeted civilian targets, no casualties were mentioned, with the exception of the wounding of a woman. As for the fighting in Kajo Kaji, and the subsequent displacement of civilians from the region, the report does not refer to the fact that this town was used by the Sudan People's Liberation Army (SPLA) Torit faction as its military headquarters, while Kaya forms the major crossing centre for its military supply route. The erroneous statement by Bíró that the principal objective of bombing of civilian targets "is to clean determined areas of its population and to prevent displaced persons from settling and becoming self-sufficient" is only a case in point of his prejudice, since it is the Government which will have to rehabilitate these areas, once they have been

liberated from rebel control, and provide their populations, including returnees, with the means to cultivate their land and to build their huts, as it is the case with other areas further away from the areas of military conflict. As a matter of fact, food production in many of the southern states, which have been made secure, will make them less dependent on relief assistance.

20. It is interesting to note that, for the first time in his handling of human rights in the Sudan, Gáspár Bíró referred to atrocities against civilians being committee by the SPLA factions. However, he could not bring himself to be even-handed in his reference to cases attributed either to the government forces and the rebel factions. While the activities by the government forces were described as indiscriminate and deliberate, those ascribed to the rebel forces were hedged with phrases such as "following heavy fighting" and some were even attributed to individual acts.

21. It is in his reference to the case of "unaccompanied minors" that Bíró exhibits his bias against the Government to its utmost. His attempt to put the north at par with the south in recruiting minors for military training is flying in the face of truth. The north, with a population exceeding 20 million - apart from the 5 million in the south - has more than enough persons of military age to recruit for its military establishment, whenever the need arises. It is in fact the rebel movement that is nearing the exhaustion point in finding recruits for its military forces, and which has frequently and regularly resorted to raiding refugee camps in neighbouring countries to secure new recruits, including minors. The Sudanese Government has persistently raised these issues with the respective United Nations bodies, to put an end to this practice, and to repatriate the minors to the Sudan to be rejoined with their families. Alas, such appeals went unheeded by these bodies, while some neighbouring countries went as far as to prevent government representatives from visiting these camps and to verify what has become common knowledge as to the behaviour of the rebel movement and the collusion of certain circles in this sordid affair.

22. The attempt of Bíró to cover up for the SPLA-Torit, by including in his report statements by rebel officials and commanders to the effect that "only boys older than 14 can be conscripted into the fighting units of SPLA" or, again, that Commander Salva Kiir stated to him that the SPLA-Torit is "committed and in fact does respect the provision of the Convention on the Rights of the Child", and his apparent willingness to accept this assurance at face value, can only add insult to injury and make a farce of his attempt to appear even-handed.

23. As for his remarks relating to the distribution of relief assistance, Gáspár Bíró seems to have set out to turn the fact of the matter around and to lay the blame at the doorstep of the Sudanese Government, by implying that the Government is deliberately trying to starve the population in the areas under its own control. In displaying such a negative attitude, he seems to be overlooking the fact that the food supplies to the areas in need were largely supplied by the Government, the barges and trains transporting these supplies are owned by the Government and cargoes seized from the barges and trains were actually acts of brigandage carried out by the rebel factions along the routes of Juba and Wau. The Sudanese Government has offered on several occasions to send military contingents to guard the barges and trains, but the United Nations officials turned down these offers on the flimsy and naive pretext that no

military contingents can travel under the United Nations flag. Such an excuse sounds strange indeed when one recalls the situation prevailing in Rwanda or for that matter in Bosnia and is contrary to the spirit of cooperation which should prevail between the United Nations and the officials of the host country.

24. As for Bíró's reference to the flight clearance requests and their handling by the authorities, he seems to be venturing into an area beyond the competence of his mandate. The proper authorities to deal with flight clearance and other related areas are the Sudanese Government, the Department of Humanitarian Affairs of the Secretariat, the International Committee of the Red Cross (ICRC) and those non-governmental organizations that are operating in the field and registered with the Sudanese authorities, which are more or less operating in harmony and continuously improving on the rules and procedures as they gain more experience. To deal with this are in a report on human rights and to attempt to reflect on some aspects out of context and on a selective basis is proof that Bíró is handling his mandate in an irresponsible manner.

25. The same can be said about his brief reference to the problem of land-mines. His reference to the government forces in this respect is unfortunate, since it is the rebel movement that resorted to an extensive use of land-mines supplied to it by some of its foreign backers, in its desperate attempt to hold onto the few towns and territories still under its control, or in its earlier attempts to bottle up the government troops in some towns, when it had the upper hand militarily. Suffice it to state that most of the government casualties are from anti-personnel and land-mines, as the armed forces move on to recover the territories that were still under rebel control. The problem of land-mines has led the Sudan to seek assistance in mine clearance by co-sponsoring General Assembly resolution 48/7 of 19 October 1993, entitled "Assistance in mine clearance", and the draft resolution at the forty-ninth session of the Assembly as well.

26. In his earlier reports the Special Rapporteur misconceived the causes of displacement in the Sudan and accused the Government of ethnic cleansing. The Government authorities cordially tolerated the accusation and in good faith attributed it to his lack of experience by explaining to him time and again that displacement in the Sudan was caused mainly by war and drought and that the Government was exerting unabated efforts to overcome those causes and ultimately bring the displaced persons back to their homelands at a later stage when the Government was preoccupied in the rehabilitation of the so-called "peace settlement". Now, after having distorted the image of the Government in that respect, he acknowledges in paragraph 78 of his report the recent reports of the United Nations agencies which reveal that the government authorities are coordinating the voluntary return of 3,995 families. But even then he wouldn't let the Government enjoy that tremendous achievement by reporting in paragraph 79 that he was very much concerned about the manner in which the repatriation was being carried out. And we can tell beforehand that soon after he satisfies his unwarranted worries about the manner in which the repatriation process is carried out he would come and report back new worries about the future prospects of those repatriated. Those remarks on the question of the repatriation of the displaced are again irrelevant to this report and are designed to lead the Commission to the wrong conclusions. Repatriation is

carried out with the consent of those who want to return to their homelands, already secured and pacified.

27. The Government of the Sudan has expressed its position with regard to Gáspár Bíró beyond any shadow of a doubt, its lack of confidence in his integrity and impartiality as a United Nations official entrusted with investigating the situation of human rights in the Sudan and its concern and disappointment at the way the Commission has been politicized and abused in the pursuit by some to achieve certain political objectives. The respective covenants and treaties on human rights and international humanitarian law have been subjected to so much political manoeuvring in the pursuit of expedient objectives that human rights began to lose much of their lustre, and became a cause of concern to many of the third world countries. The Foreign Minister of France, in an article he contributed to the International Herald Tribune on 3 November 1994, has this to say: "In many parts of the world, the impression is spreading that the democracies are twisting international law for their own benefit. By making the effort to be clear and responsible, we shall consolidate the force of international law." For its part, the Sudan fully agrees with this view. It stands ready to play its part in enhancing respect for international law, for human rights - starting with its own territory - and for cooperation with the respective United Nations bodies in evolving and pursuing standards and policies designed to eliminate any violations of human rights, which may come or be brought to its attention. To this end, the Sudan has requested technical assistance from the Centre for Human Rights to train its personnel in the respective government agencies that have to do with human rights. The Government is happy to note that the United Nations High Commissioner for Human Rights has promised to do his utmost to respond positively to this request.

28. The Government wishes to avail itself of this opportunity to assure the members of the Third Committee that it will cooperate fully with the Commission and the Centre, and at the same time reiterate its position that it will not deal with Gáspar Bíró or submit to any coercive moves to impose his unwelcome presence on its territory for the reasons explained in detail in the following paragraphs.

29. According to Commission on Human Rights resolution 1993/60 of 10 March 1993, the Special Rapporteur for the Sudan, Mr. Gáspár Bíró, was requested to submit a report on the situation of human rights in the Sudan to the Commission at its fiftieth session and an interim report (A/48/601) to the General Assembly at its forty-eighth session. To our dismay, this report to the Commission (E/CN.4/1994/48) proved that the Special Rapporteur has worked ultra vires not by exceeding his limits here and there, but according to a totally different agenda, which has no relation whatsoever to resolution 1993/60. The main objective of that agenda is the abolition of Shariah laws in the Sudan, and its tools are the collection of allegations of human rights violations from whatever source.

30. In his report to the Commission (E/CN.4/1994/48), Mr. Bíró called for the abolition of certain provisions of the Sudanese penal law, which are based on Shariah law, and said in paragraph 61 of his report, "it does not matter in this context who the drafter is, nor what the sources of inspiration of these norms are", a language which is regarded as profane and unsuitable. Accordingly, the

Government of the Sudan declared the position of not allowing Mr. Bíró on its soil and territory while indicating its preparedness to resume its unreserved cooperation towards any other official the Commission on Human Rights deems fit to carry out the mandate presently assigned to Mr. Bíró.

31. The Special Rapporteur has kept vigil over the application of Shariah in the Sudan, in particular the penal legislations, in complete disregard of the freedom of religion guaranteed by various human rights conventions. He was particularly haunted by that issue to the extent of using profane language and desecrated composition and concluded by calling for its abolition, thereby hurting the feelings of Muslims worldwide. He uncompromisingly used his reports to attain that objective, turning a blind eye to the limits of his mandate and the requirements of credibility and reliability of information called for in Commission resolution 1993/60. His actions, combined, amount to a violation of the provisions of Article 2, paragraph 7 of the Charter, as well as article 24 of both the Universal Declaration of Human Rights and the International Covenant of Civil and Political Rights.

32. Gáspár Bíró's criticism and adverse comments on the Islamic Shariah echoed worldwide and generated protests all over the Islamic world. The final communiqué of the Annual Coordination Meeting of the Ministers for Foreign Affairs of the States members of the Organization of the Islamic Conference, held at the United Nations in New York on 28 Rabiul Thani 1415 H. (3 October 1994) touched on the issue by providing, in its paragraph 42, the following: "The meeting took note of the statement of the Foreign Minister of the Sudan concerning the adverse comments on the Islamic Shariah contained in the report of the Special Rapporteur for Sudan and affirming that any criticism of the principles of the Islamic Shariah is inadmissible and unacceptable".

33. According to paragraph 3 of Commission resolution 1993/60, the Special Rapporteur should have been "an individual of recognized international standing and expertise in human rights". But he does not meet those high qualifications in view of his age (he was born on 16 June 1958) and poor curriculum vitae, compared with the other experts of the Commission, who have been on the job since before he was born. This fact tainted his reports, which are no more than a collection of allegations, instead of being careful studies of allegations in the light of the recognized concepts of evidence, including admissibility, weight and corroboration. But nowhere in his reports do we find reference to these fundamental concepts. Judging from our experience with the Special Rapporteur, he failed to distinguish between "allegations" and "evidence", a distinction which is very pertinent to his mandate. Another example is his failure to set objective criteria for judging the credibility and reliability of the information as expressly requested in paragraph 5 of resolution 1993/60.

34. By his acts and manner of reporting, Mr. Gáspár Bíró has violated "The Standards of Conduct in the International Civil Service of 1954" as set out in the report of the International Civil Service Advisory Board prepared in response to the request of the Administrative Committee on Coordination at its twelfth session in October 1951, and in particular, paragraph 20 of the said report which reads:

> "It is also the duty of the staff members to avoid any action which would impair good relations with Governments, or destroy confidence in the Secretariat - such as public criticism of, or any kind of interference with, the policies or affairs of Governments. For international civil servants, either individually or collectively, to engage in any active criticism of a Government or in any activity which undermines or discredits its authority, is incompatible with their status. A fortiori, any direct or indirect activity with a view to the overthrow of a Government by force, including incitement or advocacy of such overthrow, is one of the gravest forms of misconduct."

and paragraphs 33 and 36 of the above report, which read, respectively:

> "33. In view of the independence and impartiality required by their status, it is an essential principle that international civil servants, while retaining their right to vote, should refrain from political activities. It is participation in political partisanship, or the public manifestation of views on questions of public controversy, and not the holding of beliefs and opinions, that will destroy or diminish the contribution of international officials to the work of the international organizations; in fact, it is not only permissible but desirable that staff members should take a lively interest in the important public questions of the day."

> "36. Within the broad field of political and public affairs, it is not sufficient to abstain from activities in the cause of a particular party. Public participation in any matters of national or international controversy must be ruled out by the staff member's code of conduct. Even membership in groups supporting resolutions or particular decisions of the international organization, when that support involves pressure on particular governments for action, may be inadvisable, since it may involve identification of the staff member with such pressure."

35. Mr. Bíró not only violated the code of conduct of United Nations officials as an international civil servant, but he actively participated in opposition activities against a Member country of the United Nations in flagrant violation of the mandate entrusted to him by Human Rights Commission resolution 1993/60. During the course of 1994, the political activities of Mr. Bíró against the Sudan included his active participation in public meetings organized by the self-exiled leaders of Sudanese opposition and other circles hostile to the Sudan in Washington, London and Bonn. It is the general conviction that United Nations officials, regardless of their personal conviction and political views, should not engage in such activities and should maintain an impartial attitude in accordance with the terms of reference of the Commission on Human Rights and the Charter, and the standards of conduct of the international civil service.

36. The fact that Mr. Gáspár Bíró has shied away in his report to the General Assembly (A/49/539) from his profane remarks as contained in his report to the Commission on Human Rights (see E/CN.4/1994/48, paras. 59, 60, 61 and 133 (a)) constitutes admission on his part of that adverse position and grave mistake, and ignorance of the culture and social values of others and, as such, cannot

justify his continuation as a Special Rapporteur on the human rights situation in the Sudan.

37. For all of these reasons combined, the Government of the Republic of the Sudan, after two years of unreserved cooperation, could not but reject Mr. Gáspár Bíró as Special Rapporteur for the situation of human rights in the Sudan, while reiterating its preparedness to cooperate with another qualified impartial and professional rapporteur to be appointed by the Commission on Human Rights.